

AGENDA
HAYES TOWNSHIP BOARD OF TRUSTEES
7:00p.m. March 11, 2024
Hayes Township Hall
9195 Major Douglas Sloan Road
Charlevoix, Michigan 49720

Join Zoom Meeting

<https://us02web.zoom.us/j/88001640434?pwd=QkdkY3AzN1dmKzZpajZQNEkwMkZ5dz09>

Meeting ID: 880 0164 0434

Passcode: 251468

+1 312 626 6799 US (Chicago)

1. Call to Order
2. Pledge of Allegiance
3. Review and Approval of Agenda
4. Public Comments
5. Approval of Regular Meeting Minutes of February 12, 2024
6. Treasurers Report
7. Clerks Report: Approval of Warrants; Cemetery Report
8. Reports: County Commissioner, Zoning Administrator, Planning Commission, Zoning Board of Appeals, Parks and Recreation, Trustee's, and Supervisor Reports.

NEW BUSINESS

9. Charlevoix Road Commission Estimates-Maple Grove
10. Assessor Presentation
11. LCEMS Fence Proposals
12. Fee Schedule Update
13. Public Comment
14. Board of Trustee Comment

ADJOURN MEETING

Public Comment at Meetings of the Hayes Township Board of Trustees

The Hayes Township Board of Trustees values public input and offers two opportunities for the public to comment at its meetings, once near the beginning and once near the end. This affords the Board of Trustees the opportunity to hear your views and remarks. If you speak, you should not expect to engage the Board of Trustee members or any staff in discussion or debate.

Board of Trustee members will not respond to comments made during the Public Comment unless it becomes necessary to ask a clarifying questions, correct a factual error, or to provide specific factual information.

Questions about Township matters are best directed to individual Board members or Township staff (Planner, Zoning Administrator, or Assessor) between meetings. Contact information is available on the township website at: hayestownshipmi.gov.

The availability of public comment is recognized by the Michigan Open Meetings Act. The Act provides that rules may be adopted for orderly comment from the public. To that end, the following rules have been established by the Board of Trustees:

1. A person wishing to speak will indicate on the sign in sheet that they would like to be called on at Public Comment. All persons in attendance in person will be called on first. Zoom attendees can indicate they would like to speak by raising their hand icon.
2. The person will begin by stating their name, spelling it out if requested.
3. The person addresses the Chairperson, or other person chairing the meeting, on behalf of the entire Board of Trustees. Public comment is NOT to be addressed to individual Board of Trustee members, to any township staff present, or to other members of the audience.
4. There is a three (3) minute time allotment for each speaker. The time limit may be extended by the Chairperson or majority of the Board of Trustee members present. A speaker may speak only once at each Public Comment. There is no provision for another audience member to 'donate' their three (3) minutes to another speaker.
5. A speaker will be out of order if the speaker disrupts the meeting, speaks longer than the allotted time, uses vulgarities or makes a personal attack on a Board of Trustee member or Township employee that is unrelated to the performance of that person's duties.
6. If a speaker is called out of order, that speaker will not be able to speak again at the same meeting except by special leave of the Board of Trustees
7. The Chairperson, or other person chairing the meeting, will have the discretion to permit members to speak at times other than the times reserved for Public Comment.

HAYES TOWNSHIP
BOARD OF TRUSTEES REGULAR MEETING
February 12TH, 2024 7:00 PM
HAYES TOWNSHIP HALL
09195 MAJOR DOUGLAS SLOAN RD
CHARLEVOIX, MICHIGAN 49720
ZOOM 849 2451 3210

1
2 The February 12th, 2024, Ron VanZee at 7:00 pm.

3 Board members present were Matt Cunningham (Trustee), Julie Collard (Treasurer), Doug
4 Kuebler (Trustee), April Hilton (Deputy Clerk/Recording Secretary), Ron VanZee (Supervisor)
5 and Kristin Baranski (Clerk)

6 Audience Members signed in: LuAnne Kozma, Ellis Boal, Roy Griffitts, David Zipp, Rex
7 Greenslade, Deb Narten, Danielle Hutchenson, CT Martin, Marilyn Morehead, Jesse Silva,
8 Rod Slocum, Sharon Hoffman, Mark Snyder, Janet Simon, Jim McMahon, Tim Boyko, Bob
9 Jess, Steve Bulman, John Donahue, Doug Labelle, Ed Russell, Laura Ford, Jerry Simpson,
10 Robert McLean, Matt Berg, Alisha Berg, Donald Gregory, Michelle Rick-Biddick, Mel
11 Czechowski, David Kemme, and Katherine Simon.

12
13 **CALL TO ORDER**

14 Supervisor Ron VanZee called the meeting to order at 7:00 pm.

15
16 **PLEDGE OF ALLEGIANCE**

17
18 **REVIEWED & APPROVED AGENDA**

19 Mr. Kuebler made a motion, supported by Mr. Cunningham to approve the agenda as
20 presented.

21 Yays: Matt Cunningham, Julie Collard, Doug Kuebler, Ron VanZee, and Kristin Baranski.

22 Nays: None Motion Carried

23
24 **JOE VERLIN, CPA, CGFM GABRIDGE & COMPANY-AUDIT PRESENTATION TO THE BOARD:**

25
26 Joe Verlin, CPA from Gabridge & Company, presented an extended breakdown of the
27 Township's Audit Report to the board.

28
29 Audit highlights included:

- 30 • The opinion found by the auditor for the townships financial statements was stated
31 as "the financial statements present fairly and, in all material, respects the financial
32 position of the Township as for June 30, 2023, is consider clean." which is the highest
33 level of opinion for a Townships Financial statement. This means the township

HAYES TOWNSHIP
BOARD OF TRUSTEES REGULAR MEETING
February 12TH, 2024 7:00 PM
HAYES TOWNSHIP HALL
09195 MAJOR DOUGLAS SLOAN RD
CHARLEVOIX, MICHIGAN 49720
ZOOM 849 2451 3210

provided the auditor the QuickBooks file, with the revenues, expenditures, and liabilities on it. The auditor also worked with the County, the State of Michigan, Dept. of Treasury, and banking institutes to gather the evidence they needed to provide this opinion.

- The Auditor stated, “there are some areas we believe the township can strengthen their internal control... there are opportunities for improved financial reporting through the year... is the township better off financially June 30,2023 than they were on June 30, 2022? The answer is yes, by \$114,569.”
- The auditor stated, “after you get through the audit report, we have a separate letter that is addressed to the board. We aren’t necessarily providing any type of opinion on the township’s internal controls, but we do assess the Townships internal controls, in part of performing the audit. If we see controls that we think aren’t properly designed or carried out successfully or consistently during the course of the year, we put them as control findings in the back of the audit report. Hayes Township has 9 bank accounts and 4 fund, QuickBooks is not designed for those nuances of financial reporting. Best practice is three bank accounts: Checking, Savings and Tax.
- Auditor supported Hayes Township investing in BS&A, stating “it will reduce the risk of error because it is designed for reporting the finances of townships, where QuickBooks is designed for small businesses without multiple accounts and funds... This is the systemic cause of the issues fund in the audit and the common issue that I see across our 75 townships we audit.”
- The Auditor stated, “not having the right software is making it difficult for the township to have correct information in it financial records making it difficult t run reports that show that cash truly is reconciled across all the funds... the Township has since, subsequent to the audit report, brought all the bank accounts fully current which we applaud.”
- Auditor stated, “the Township’s finances are healthy... General fund balances are healthy... The Township is 90% funded with 11 months’ worth of reserves and it’s net position is increasing.”

HAYES TOWNSHIP
BOARD OF TRUSTEES REGULAR MEETING
February 12TH, 2024 7:00 PM
HAYES TOWNSHIP HALL
09195 MAJOR DOUGLAS SLOAN RD
CHARLEVOIX, MICHIGAN 49720
ZOOM 849 2451 3210

TODD MILLAR, PARKER HARVEY, HAYES TOWNSHIP COUNSEL PRESENTATION TO THE

BOARD:

Todd Millar, Township Counsel from Parker Harvey presented the reasoning for an increase in the Township budget for Legal Services.

The Legal budget was affected by the following cases in the last year.

- Judge Hayes rendered his opinion on Friday, in the Reith Riley gravel pit matter that was pending. Petitioners from Hayes township had filed a lawsuit against Reith Riley stating that if Reith Riley continued to mine beyond the 25-year time period they believed Reith Riley would be against the late 1980 Consent agreement and Reith Riley needed to shut down operations immediately. Judge Hayes Ruled the Petitioners failed to prove that Reith Riley was breaching the agreement because they failed to prove that there was any agreement stating Reith Riley would stop mining after 25 years. The judge also determined the language in the 1980's consent judgement discussing the time frame of mining being advisory only, the judge ruled this did not give Reith Riley the right to mine as long as they wanted too. The judge decided neither party was correct in their interpretation of the agreement. Judge Hayes ruled to adopt language from a stipulation agreement submitted to the courts by the Township and Reith Riley before the hearings began. This stipulation states Reith Riley will complete mineral extraction at the Green Pit no later than December 31, 2028. That all of the other provisions of the 1980's consent judgement are still in effect. This stipulation had been created and agreed upon by the Township and Reith Riley back in August 2023 during a consolidated mediation between the Petitioners, Hayes Township and Reith Riley. The Petitioners were not interested in accepting this stipulation during the Consolidated Mediation. The Gravel Pit court case started in April 2023 and continued to January of 2024 and has cost the Township \$20,000 dollars in legal fees this does not include Todd Millars fees for meeting and communication cost.
- Law Project lawsuit #1 was a complaint for mandamus submitted by LuAnne Kozma and Irene Fowle in October 2021. The purpose of this lawsuit was to enforce the Zoning Administrator to submit the claim of appeal they had filed to the ZBA. The appeal was submitted to the ZBA, and the complaint voluntarily dismissed their complaint on October 15th 2021, which was 7 days later.

HAYES TOWNSHIP
BOARD OF TRUSTEES REGULAR MEETING
February 12TH, 2024 7:00 PM
HAYES TOWNSHIP HALL
09195 MAJOR DOUGLAS SLOAN RD
CHARLEVOIX, MICHIGAN 49720
ZOOM 849 2451 3210

- Law Project Lawsuit #2 was on October 29th, 2021, Luanne Kozma and Irene Fowle filed a complaint for Juncture relief trying to get the ZBA to actually schedule a hearing. Once this lawsuit was filed to the court the defendant (being the ZBA and Township) has two options they can answer the complaint and defend it or ask the judge to dismiss the case. The Township decided to file a motion to dismiss, and the judge throw the case out on December 17th, 2021.
- Law Project Lawsuit #3 Was on March 29th, 2022, this complaint was regarding the number of issues surrounding the population of the ZBA more specifically stating the Township needed to take Roy Griffitts off the ZBA and the Court needed to validate of the decisions he had a part in, and other people had conflicts of interest and the Board was making decision outside of the meetings. This case was also eventually dismissed in July of 2022 and the judge stated the Lawsuit should have never been filed and invited the Township to file a motion for sanctions, which the Board decide not to pursue.
- Law Project Lawsuit #4. The ZBA held some long meetings in August 2022 in regard to an appeal and interpretation all centering around the Law Project. After the ZBA had made their decision for these meetings an appeal was submitted to the circuit court by LuAnne Kozma on October 20th, 2023. Court ruled on January 2nd of 2024 that LuAnne Kozma lacked standing to appeal the ZBA hearing. LuAnne Kozma has filed an application for leave with the court of appeals which is pending; township will need to respond.
- Throughout all four of the lawsuits regarding the Law Project have cost the Township \$69,000 in legal fees within 2 years.

Ms. Baranski made a motion, supported by Mr. Kuebler, to approve Todd Millar to research and investigate to protect the township and to verify the official emails, phone number and address for official township business.

Yays: Matt Cunningham, Julie Collard, Doug Kuebler, Ron VanZee, and Kristin Baranski.

Nays: None Motion Carried

PUBLIC COMMENTS UNRELATED TO AGENDA ITEMS

Public comment opened and closed at 8:09.

Public comments included:

HAYES TOWNSHIP
BOARD OF TRUSTEES REGULAR MEETING
February 12TH, 2024 7:00 PM
HAYES TOWNSHIP HALL
09195 MAJOR DOUGLAS SLOAN RD
CHARLEVOIX, MICHIGAN 49720
ZOOM 849 2451 3210

- Would like clarification on the Reith Riley court decision. Is concerned the stipulation may have altered the judge's decision.
- Joellen Rudolph (head intervener) stated the interveners have not decided whether they are going to appeal the Reith Riley decision or not. Claimed the interveners had never seen a proposal in writing from the Township or Rieth Riley before they decided to sue. Also, stated before they decided to sue the interveners were told they would have to give up all rights to Rieth Riley if they agreed to the five-year proposal. Also stated mediation was a waste of time and money for the interveners. Because what they recall happening was, Rieth Riley made a offer for five years with no detail of what was included in that, therefore the interveners sent back a counter offer which Reith Riley turned down then mediation closed. Stated they feel Rieth Riley is not done mining in Bayshore, and the interveners are very concerned for the properties near the Green Pit.
- Stated some of the Lawsuits towards the township in recent years should be consider frivolous. Would like to know why the township did not pursue sanctions because it seems the Township was forced to spend \$69,000 dollars of Taxpayers money defending against frivolous lawsuits. Would also like to encourage the township to investigate the issue with previous township administrator still have access to the townships accounting records and systems.
- Pool Authority representative Ed Russell stated the Pool Authority is concerned the Rec Authority recent proposal regarding the terms of the Pool Mileage. The Pool authority is concerned it will have a negative fundamental impact on the pool. Ed stated it is the Rec Authorities responsibility to prepare the mileage to be ballot worthy and choose the election date. The Rec Authority mentioned a two-year mileage verse the current ten-year mileage for the Pool Authority and voted for the November Ballot instead of the August ballot.
- Ellis Boal (Interveners Legal Counsel) stated he is unsure why the Township spent \$20,000.00 regarding the Reith Riley decision because the Interveners did not make a claim directly towards the Township. As for the Law Project, in his opinion as the lawyer for the complainant, they had won this case because the Laws have since decided to end their plans for developing the Boathouse. Also, stated in his view legal fees would have decreased if Roy Griffiths had not originally sabotaged the ZBA

HAYES TOWNSHIP
BOARD OF TRUSTEES REGULAR MEETING
February 12TH, 2024 7:00 PM
HAYES TOWNSHIP HALL
09195 MAJOR DOUGLAS SLOAN RD
CHARLEVOIX, MICHIGAN 49720
ZOOM 849 2451 3210

hearing. Suggested adding the Township By-Laws and policy manual and the township office hours on the Townships website.

- LuAnne Kozma stated in her opinion if the Law Project lawsuits would have not been necessary if Ron VanZee as Zoning Administrator would have originally declined the Laws Application. Stated she felt the Township had violated the Zoning Ordinance. Stated the Judge was mistaken when making his ruling on her case which is why she is appealing it. Thanked the Auditor for all his work on the Townships audit, however, would like to know if the townships have any open debt with the City of Charlevoix.
- Would like to have a podium for the Township residents to stand at during Public Comment. Stated they would like to donate one. Feels the Township Voice is being used as a political tool and would like to see the township spending money elsewhere within the Township. Suggested having a Township Clean Up every year. Suggested the Hours at the hall should be extended and more transparent.
- Concerned with the amount of money the Township has spent in legal fees and feels like the Township could have avoided these lawsuits by following the Ordinance. Feels The Voice is full of useless information, specifically the book club information. Concerned about the audit being labeled as a clean audit by the auditor.
- Stated they support previous comment regarding the opinions of lack of transparency from the Township Board. Also, supports previous comment regarding the Law Project Lawsuits.
- Jesse Silva, part of the Fire school for Charlevoix and Emmet County and would like to thank Hayes Township for purchasing a Fire Truck for the Hayes Township barn. It will be put to good use especially beneficial to the department for training purposes.
- Steve Bulman (previous Planning Commission Member) stated they support Roy Griffitts and Ron VanZee. Stated he sat on the Planning Commission for a couple years and witnessed the stone throwing and constant accusations against members. Stated this call out make it very difficult for the board to accomplish anything. appreciates everyone who dedicates their time and effort at the Township and feels sorry for the members to have to deal with the negative and rude outburst made at meetings by other residents.
- David Zipp stated that that he would like to see the residents who continue to accuse and complain about the board, run and become an official so they might be able to

HAYES TOWNSHIP
BOARD OF TRUSTEES REGULAR MEETING
February 12TH, 2024 7:00 PM
HAYES TOWNSHIP HALL
09195 MAJOR DOUGLAS SLOAN RD
CHARLEVOIX, MICHIGAN 49720
ZOOM 849 2451 3210

develop an understanding of the amount of time and effort that is given by each individual on the board.

- Stated they would like to see the township go after sanctions for the lawsuits that are ruled as frivolous.
- Stated residents of the state of Michigan should be concerned of mining processes. They were disappointed with the Reith Riley court decision; they are still concerned for Reith Riley effects on Bay Shores water supply. Stated they feel The Voice is a waste of Township money, would like to see money spent on a new survey. Would like the Township to enforce a farm fence around the Rieth Riley Green Pit.
- Supports the decision to switch accounting software programs. Suggested to test the new software before completely transferring over to make sure the new software will work for the township. other comments made are attached to the minutes.
- Roy Griffiths informed the board of a false accusation made against him at the January Planning Commission meeting by Ellis Boal stating Roy Griffiths was a crook for not returning fund paid during his rule of Deputy Supervisor. Roy stated after consulting with the Township attorney it was determined there was not an issue with incapability. Stated the false accusations against Township officials need to stop immediately, it is becoming costly and discouraging to individuals wanting to be involved in the Township.
- Requested the Board to clarify how it is determined if a resident is out of order during public comment or not.
- Stated most members or township officials are volunteering their time to the township, they are dedicated to doing the best they can and care about the township and the lakes. Stated she was on the Planning Commission when the Law Project was presented, and she regrets approving the project and feels she had made a mistake voting in favor of it. However, does not feel like the lawsuits were necessary and thanked Todd Millar for all of his work in those cases. Also, thanked the board for all their hard work and feels the township is ran better now then it ever was before.

Closed at 8:52

APPROVAL OF JANUARY 8TH 2024 BOT REGULAR MEETING MINUTES:

HAYES TOWNSHIP
BOARD OF TRUSTEES REGULAR MEETING
February 12TH, 2024 7:00 PM
HAYES TOWNSHIP HALL
09195 MAJOR DOUGLAS SLOAN RD
CHARLEVOIX, MICHIGAN 49720
ZOOM 849 2451 3210

Mr. Kuebler made a motion, supported by Ms. Baranski to approve the January 8th, 2024, Board of Trustees regular meeting minutes as presented.

Yeas: Julie Collard, Ron VanZee, Matt Cunningham, Doug Kuebler, and Kristin Baranski.

Nays: None **Motion Carried**

TREASURERS REPORT

Ms. Collard presented a written report reporting all Hayes Township account balances.

CLERKS REPORT: APPROVAL OF WARRANTS

Clerk, Ms. Baranski, presented the warrants in the amount of \$74,051.44.

Ms. Baranski made a motion, supported by Mr. Kuebler, to approve Township warrants in the amount of \$74,051.44. A roll call was taken.

Yeas: Matt Cunningham, Julie Collard, Ron VanZee, Doug Kuebler, and Kristin Baranski.

Nays: None **Motion Carried**

Ms. Baranski made a motion, supported by Mr. Kuebler to approve the installment payment for the EMS building loan in the amount of \$10,248.13, the total installment payment will be offset 100% by the LCEMSA monthly lease payment. A roll call was taken.

Yeas: Matt Cunningham, Julie Collard, Ron VanZee, Doug Kuebler, and Kristin Baranski.

Nays: None **Motion Carried**

Ms. Baranski made a motion, supported by Mr. Kuebler, to approve the bid from Wilmot Electric in the amount of \$600.00. A roll call was taken.

Yeas: Matt Cunningham, Julie Collard, Ron VanZee, Doug Kuebler, and Kristin Baranski.

Nays: None **Motion Carried**

Ms. Baranski made a motion, supported by Mr. Kuebler, to approve up to \$2000.00 in additional accounting services to ensure good accounting practices for the Township going forward. A roll call was taken.

Yeas: Matt Cunningham, Julie Collard, Ron VanZee, Doug Kuebler, and Kristin Baranski.

Nays: None **Motion Carried**

HAYES TOWNSHIP
BOARD OF TRUSTEES REGULAR MEETING
February 12TH, 2024 7:00 PM
HAYES TOWNSHIP HALL
09195 MAJOR DOUGLAS SLOAN RD
CHARLEVOIX, MICHIGAN 49720
ZOOM 849 2451 3210

COUNTY COMMISSIONER REPORT

Robert Jess presented an oral County Commissioner report.

PARKS AND REC. REPORT

Next meeting will be held on March 4th, 2024, at 6:00pm at Hayes Township Hall.

PLANNING COMMISSION

Mr. Cunningham presented the Planning Commission Report. The next regular Planning Commission meeting is February 13th, 2024, at 7:00 pm.

ZONING BOARD OF APPEALS

Mr. Kuebler presented the Zoning Board of Appeals report. No Meetings are scheduled currently.

Mr. Kuebler also reported from the Charlevoix Road Commission Meeting.

ZONING ADMINISTRATOR REPORT

Ron VanZee presented a Zoning Administrator report.

Report available at the Hayes Township Hall.

TRUSTEES:

Mr. Cunningham stated circulators have not been put in at Hayes Township Park. The need for them will continue to be monitored.

SUPERVISOR REPORT: Ron VanZee presented a supervisor report.

BS&A ACCOUNTING PROPOSAL:

Ms. Baranski made a motion, supported by Ms. Collard to approve the proposal, and sign the contract with BS&A with an amount total of \$38,410.00 with an initial payment of \$13,500.00 from the ARPA funds for new accounting software. A roll call was taken.

Yeas: Matt Cunningham, Julie Collard, Ron VanZee, Doug Kuebler, and Kristin Baranski.

Nays: None **Motion Carried**

APPROVAL OF FEBRUARY 27TH, 2024 ELECTION INSPECTORS:

HAYES TOWNSHIP
BOARD OF TRUSTEES REGULAR MEETING
February 12TH, 2024 7:00 PM
HAYES TOWNSHIP HALL
09195 MAJOR DOUGLAS SLOAN RD
CHARLEVOIX, MICHIGAN 49720
ZOOM 849 2451 3210

Ms. Baranski made a motion, supported by Ms. Collard to approve the election inspectors for the February 27th, 2024, election.

Yeas: Matt Cunningham, Julie Collard, Ron VanZee, Doug Kuebler, and Kristin Baranski.

Nays: None **Motion Carried**

PUBLIC COMMENTS: Public comments opened at 9:15 pm.

Comments included:

- Believes the Township attorney and Judge has brought forward valid points that the cases have been dismissed because there is no evidence of the Township violating or doing anything wrong, which indicates these to be frivolous lawsuits. Stated when they reviewed the Townships audit information, it shows as a clean audit, with no mismanagement of funds and it is normal for audits to have suggestions and recommendations for improvement. Stated they are disappointed in the negative comments directed towards the board because the members are all volunteers that are trying to do their best with good intentions for the Township. Supported the continuing publication of The Voice.
- Quoted Lloyd Kuebler stating, "just because you can do something, doesn't mean you should." Stated the Township should look for a diversity of people to serve on the boards. In their opinion a township of 40,000 people should be capable of finding someone capable of filling every open spot to avoid dual positions.
- Requested clarification of the cost for the new accounting system. Also, would like to see the board and residents communicating better and more politely.
- Stated that many Hayes Township residents utilize the pool and will be reaching out to each board member for their individual support.
- Appreciates Ms. Morehead stated an error on her behalf. Responded to a previous comment made regarding Roy Griffiths and stated if he had stepped aside from the Deputy Supervisor position, they would have never claimed for sabotaging the ZBA hearing.
- Stated they believe the Township owes the City of Charlevoix \$98,000. Stated they do not believe the Michigan Treasury has accepted the Townships Corrective Action Plan. Would like clarification of when the board approved purchase for the Fire Truck.
- Stated they noticed there is no place for residents to hang their coats.

HAYES TOWNSHIP
BOARD OF TRUSTEES REGULAR MEETING
February 12TH, 2024 7:00 PM
HAYES TOWNSHIP HALL
09195 MAJOR DOUGLAS SLOAN RD
CHARLEVOIX, MICHIGAN 49720
ZOOM 849 2451 3210

- Address the Township Attorney, requesting information regarding enforcement of a fence at the Reith Riley Green pit.
- Stated they believe the Pool is a great asset for the Township. Would like clarification on the amount approved for the new accounting software. Supports the Township receiving training with the new software.
- Stated they are not surprised by the amount money spent on legal services in recent years. Stated they understand the difficulty of being on the Township boards especially with all of the criticism. Stated there are better ways to get ones point across with out being so personal and strident.
- Supports the food pantry located in the Hall. Stated they understand locking the doors at the Township Hall, in today's society. They apricate everyone on the board for all their hard work together to better the Township.
- Stated he has witnessed yet again individuals being very disrespectful to the members of the board. Thanked the Board for everything they do.

Public comments closed at 9:41 p.m.

BOARD OF TRUSTEE COMMENT:

Ms. Collard responded to the comment regarding the Pool Authority and the Recreation Authority. The Rec Authority is a board that handles the Recreational Authority mileage fund. In 2004 the mileage was set up for a 10-year increment. The Rec Authority has been discussing shortening the mileage increment and they were discussing the November ballot because they feel they will receive the most amount of voter feedback. No decisions have been finalized the next meeting is scheduled for the third Monday in March when they will be discussing these topics further.

ADJOURNMENT: Mr. Kuebler made a motion, supported by Mr. Cunningham, to adjourn at 9:45p.m.

Yeas: Matt Cunningham, Julie Collard, Ron VanZee, Doug Kuebler and Kristin Baranski.

Nays: None **Motion Carried**

Respectfully Submitted,

April Hilton

Hayes Township Deputy Clerk/Recording Secretary

101 Char. State Bank Check 2643

	Name	Memo	Amount
Check	APEX SOFTWARE	ASSESSOR SOFTWARE RENEWAL	-260.00
Check	BELSONS OUTDOORS	PARK EQUIPMENT	-1,639.14
Check	CHARLEVOIX COUNTY EQUALIZATION	ASSESSMENT NOTICES	-1,395.07
Check	CRANDELL LOGGING	CEMETERY WINTER BURIAL	-750.00
Check	DTE	GASS HALL/FIRE BARN	-683.66
Check	PARKER HARVEY LAW	LEGAL SERVICES	-6,079.70
Check	GREAT LAKES ENERGY	HALL/PARKS/STREET LIGHTS	-576.73
Check	MICHIGAN ASSOCIATION OF PLANNING	EDUCATION	-99.00
Check	CHARTER COMMUNICATIONS	PHONE HALL	-78.92
Check	MTA	ANNUAL CONFERENCE	-1,220.00
Check	AIMEE GILBERT	TYPESET FEB/MARCH	-300.00
CHECK	QUILL CORPORATION	SUPPLIES	-769.36
Check	VISA	SUPPLIES, PARK, PROGRAMS, RENEWAL, ZOOM	-2,855.88
POST AUDIT	B&G	JAN/FEBRUARY BILLINGS	-2,355.00
Check	US BANK	COPIER	-767.75
Check	STATE OF MICHIGAN	38-2352841	-1,583.08
Check	IRS	38-2352841	-5,412.90
Paycheck	ALISA ABINEY	02/01/2024-02/29/2024	-2,428.61
Paycheck	REX GREENSLADE	02/01/2024-02/29/2024	-79.28
Paycheck	ROY GRIFFITTS	02/01/2024-02/29/2024	-129.29
Paycheck	APRIL HILTON	02/01/2024-03/09/2024	-3,214.48
Paycheck	PAM HOOPER-GRIFFITTS	02/01/2024-02/29/2024	-220.24
Paycheck	PAM JOHNSON	2/1/2024-2/29/2024	-330.37
Paycheck	EUGENE BRANIGAN	02/01/2024-02/29/2024	-251.09
Paycheck	RODNEY SLOCUM	02/01/2024-02/29/2024	-83.70
Paycheck	KRISTIN BARANSKI	02/16/2024-03/15/2024	-3,484.28
Paycheck	JULIE COLLARD	02/16/2024-03/15/2024	-2,608.76
Paycheck	MATTHEW CUNNINGHAM	02/16/2024-03/15/2024	-419.34
Paycheck	DOUGLAS KUEBLER	02/16/2024-03/15/2024	-614.51
Paycheck	MARK D SNYDER	02/01/2024-02/29/2024	-79.28
Paycheck	JANICE VEDDER WHIPPLE	02/01/2024-02/29/2024	-242.27
Paycheck	PAUL ZARDUS	02/01/2024-02/29/2024	-44.05

	Name	Memo	Amount
Paycheck	THOMAS DARNTON	02/01/2024-02/29/2024	-46.18
Paycheck	CT MARTIN	02/01/2024-02/29/2024	-79.28
Paycheck	JULIE COLLARD	02/01/2024-02/29/2024	-57.27
Paycheck	LESLIE CUNNINGHAM	02/01/2024-02/29/2024	-44.04
Paycheck	VANESSA CEBULSKI	02/01/2024-02/29/2024	-123.34
Paycheck	STEVE RITTER	02/01/2024-02/29/2024	-249.32
Paycheck	RONALD J VAN ZEE	02/16/2024-03/15/2024	-4,254.15
			-45,909.32
			-45,909.32
			-45,909.32

Total 101 Char. State Bank Check 2643

TOTAL

Installment	EMS BUILDING	Offset with Lease Payment	10,248.13
POST AUDIT	J ARNOLD PAINTING CO	FINAL PAYMENT	-5,130.00
CHECK	BS&A	ACCOUNTING SOFTWARE	-13,500.00
CHECK	WHITLEY FLOOR	FINAL PAYMENT HALL IMPROVEMENT	-6306.5
			-24,936.50

March 2024 Treasurer Report

(As of March 6, 2024)

Charlevoix State Bank

1. General Fund-\$648,646.41

(\$361,622.57 available, \$210,000 Recommended Reserve)

2. Tax Account-\$229,549.47 *(restricted Treasury Funds)*

3. Township Warrant Checking-\$14,545.16

4. Pantry-\$8,518.35 *(restricted funds)*

5. ARPA *(restricted funds)*-\$160,842.40

6. Fundraising Account-\$12,049.43

Forefront

7. Metro Account-\$66,621.82

8. Prime Share-\$134.74

Horizon

9. Hayes Township Road Fund-\$355,928.35 *(restricted funds)*



OFFICE OF ZONING ADMINISTRATOR
09195 MAJOR DOUGLAS SLOAN ROAD
CHARLEVOIX, MICHIGAN 49720
231.547.6961
WWW.HAYESTOWNSHIPMI.GOV

MARCH 2024 ZONING ADMINISTRATOR REPORT

Issued zoning permit for 10' X16' AND 12' X 14' attached decks at 06595 Red Pine Trail.

Issued zoning permit for a 30' x 60' accessory structure on Lot K, Summerhill Way.

Issued zoning permit for an attached roof structure and in ground hot tub at 06497 Woods Creek Drive.

Working with property owners on adjacent properties concerning setback requirement on Shrigley Road. Sent letter to correct.

Working with contractor for shoreland restoration/installation plan on Woods Creek Drive as result of notice of EGLE/USACE joint application.

Received and reviewing zoning permit application for new single family residence on Mulberry Lane. Implementing Shoreland Review Committee and waiting on Health Department Permit.

Received and reviewing application for rezone from Rural Residential to Agricultural on Burgess Road.

Received and reviewing application for Special Use Permit for outdoor display, indoor show room and sales on US 31 N/North Star Drive.

Received and reviewing application for single family residence on Pincherry Road.

Working with property owner concerning easements on Pa Ba Shan Trail.

Working with contractor proposing addition to residence on Boyne City Road outlining Shoreland Review process requirements.

CHARLEVOIX COUNTY ROAD COMMISSION

ENGINEERS ESTIMATE

DATE March 7, 2024	LOCATION Maple Grove Rd. - Upper Bay Shore Rd. to Major Douglas Sloan Rd.
TOWNSHIP HAYES	LENGTH 1.02-Mile (5,385-FT)
PREPARED BY James G. Vanek, Staff Engineer	TYPE OF WORK Bituminous Paving, Intersection Paving, Gravel Shoulders

WORK ITEM	ESTIMATED QUANTITY	UNIT	UNIT PRICE	AMOUNT
Trenching	53.85	STA	\$ 150.00	\$ 8,077.50
Embankment, LM. (Misc. Quantity)	300	CYD	\$ 15.00	\$ 4,500.00
Ditching	500	LFT	\$ 10.00	\$ 5,000.00
Culvert, CSP, Class F, 12-Inch DIA.	444	LFT	\$ 55.00	\$ 24,420.00
22A Aggregate Base	900	TON	\$ 25.00	\$ 22,500.00
HMA Crush & Shape	17,115	SYD	\$ 2.00	\$ 34,230.00
4E1, Mod. Bituminous Pavement	875	TON	\$ 82.00	\$ 71,750.00
5E1, Mod. Bituminous Pavement	930	TON	\$ 85.00	\$ 79,050.00
Bituminous Curb	1,625	LFT	\$ 1.50	\$ 2,437.50
Bituminous Spillway	85	SYD	\$ 55.00	\$ 4,675.00
Riprap, Plain	71	SYD	\$ 75.00	\$ 5,325.00
Bituminous Driveway Restoration	8	EACH	\$ 350.00	\$ 2,800.00
23A Shoulders	525	TON	\$ 32.00	\$ 16,800.00
Restoration	6,457	SYD	\$ 4.00	\$ 25,828.00
Monumnet Box Adjust/Preserve	2	EACH	\$ 600.00	\$ 1,200.00
Traffic Control/Mobilization	1	LSUM	\$ 20,000.00	\$ 20,000.00

SUBTOTAL \$ 328,593.00

CONTINGENCIES \$ 10,000.00

ESTIMATED PROJECT COST \$	338,593.00
----------------------------------	-------------------

Maple Grove Road Reconstruction
Hayes Township
March 8, 2024



MI-BMF Services LLC

5757 Boyne City Rd

Charlevoix, Michigan 49720

Phone: (231) 675 - 3079

Email: bmfservices2019@gmail.com

Website: www.mi-bmfservices.com



Michael Babbitt

(231) 675 - 3079

bmfservices2019@gmail.com

Powered by



HAYES TOWNSHIP HALL

9195 Major Douglas Sloan Road

Charlevoix, Michigan 49720

Deputyclerkhayes@gmail.com

(231) 350 - 3386

ESTIMATE

Estimate #: **EST-000044**

Estimate Date: **Mar. 4th, 2024**

Expiration Date: **Mar. 11th, 2024**

Status: **Draft**

ITEM(S)	RATE & QTY	TOTAL
Vinyl 2rail installation Installation of vinyl 2rail holes set to 48", post float set to height. Two vertical rails and caps atop posts.	\$5,356.00 200.00 Linear Ft. \$26.78/Linear Ft.	\$5,356.00
Labor Total = 200 Linear Ft.	\$5,356.00	\$5,356.00
Subtotal		\$5,356.00
Total		\$5,356.00

Payment Schedule

Deposit Due (50.00%) by **\$2678.00**
Mar. 18th, 2024

Once fence is completed **\$2678**
and final Walk Through has
been approved (50.00%)

Everything Look Good?

Approve Estimate

Something Wrong?

Request Revisions

CONTRACT & TERMS

This AGREEMENT is made this **4th** day of **March** between **April** (hereinafter called the Client), and **Michael Babbitt of MI-BMF Services LLC** (hereinafter called the Contractor).

WHEREAS the client is desirous of having certain works (as described in the Schedule hereto), carried out on the premises located at **9195 Major Douglas Sloan Road, Charlevoix, Michigan 49720**.

IT IS HEREBY AGREED that:

1. TERMS AND CONDITIONS

- a. The Contractor shall carry out and complete all works indicated in the schedule to this contract in good substantial and workmanlike manner.
- b. The Contractor shall complete the works within the time specified under the Contract Period, or any such extension of time as may be agreed upon by the Client thereafter.
- c. Any works not included in the schedule of works shall be deemed to be VARIATIONS TO CONTRACT and all terms and conditions of the original contract shall apply.
- d. The Client agrees to pay to the Contractor the Total sum of \$5,356.00 per the terms of invoices sent (each invoice will have its own respective due date).

2. The Client shall extend the Contract period by a fair and reasonable amount of time if the Contractor:

- a. Has to spend extra time on the work as a result of variations in the schedule of work.
- b. Cannot finish on time for reasons beyond their control, including, but not limited to any delays caused by the Client.

3. VARIATIONS TO THE CONTRACT

- a. The Client reserves the right to vary the contract, during the period of this Contract and it is only the Client that can change the work details of this Contract.
- b. The Contractor is bound to carry out any such variations as directed by the Client. The Client agrees to reasonably compensate the Contractor for any additional labor required of the Contractor as a result of variations made by the Client.

4. SUB-CONTRACTING

Sub-contracting of the works is not permitted without the consent of the Client, unless this was agreed upon prior to the commencement of such work.

5. MATERIALS

- a. All materials supplied by the Client shall remain the property of the Client.
- b. Where the Contractor supplies materials and the Contract does not include the supply of the same, the Contractor shall provide invoices to show the extent of supply and the Client is bound by this contract to reimburse the Contractor in the sum stated on the invoices submitted.

6. TERMINATION OF THE CONTRACT

- a. The Client may terminate this Contract if the Contractor:
 - i. is absent regularly in the performance of his contractual obligations; or
 - ii. does not meet the agreed date of completion; or
 - iii. is incompetent or negligent in the execution of his contractual obligations; or
 - iv. if the works executed are of an unacceptable quality and standard and the Contractor does not correct the matter upon notice of the same.
- b. The Contractor may terminate this Contract if the Client:
 - i. fails to pay any amount due, without giving a reasonable explanation;
 - ii. Prevents or obstructs the Contractor from the performance of his contractual obligations

7. EFFECT OF TERMINATION ON COMPENSATION

- a. In the event that the Client terminates the Contract, he will be obligated to pay the sums due to the Contractor



MI-BMF Services LLC

5757 Boyne City Rd
Charlevoix, Michigan 49720
Phone: (231) 675 - 3079
Email: bmfservices2019@gmail.com
Website: www.mi-bmfservices.com



Michael Babbitt
(231) 675 - 3079
bmfservices2019@gmail.com

Powered by



HAYES TOWNSHIP HALL

9195 Major Douglas Sloan Road
Charlevoix, Michigan 49720
Deputyclerkhayes@gmail.com
(231) 350 - 3386

ESTIMATE

Estimate #: **EST-000043**
Estimate Date: **Mar. 4th, 2024**
Expiration Date: **Mar. 11th, 2024**
Status: **Draft**

ITEM(S)	RATE & QTY	TOTAL
WRC 2rail fence installation Do to 42" frost line, and posts being 5' in height. Posts are set with 3' above grade and 2' below. So posts will have hole cut in bottom, the hole will be augered to 48" deep and post will be set 2' below grade and encompassed with concrete. This will create one solid structure that is below Michigan frost line to help mitigate frost heave. The rails are set into the posts and dot rounded shape of fence will be fastened in place with an exterior Trim screw (small head)	\$3,596.00 200.00 Linear Ft. \$17.98/Linear Ft.	\$3,596.00
Labor Total = 200 Linear Ft.	\$3,596.00	\$3,596.00
Subtotal		\$3,596.00
Total		\$3,596.00
Payment Schedule		
Deposit Due (50.00%) by Mar. 18th, 2024		\$1798.00
Once fence is complete, and final Walk Through and approval have been signed. (50.00%)		\$1798

Everything Look Good?

Approve Estimate

Something Wrong?

Request Revisions



MI-BMF Services LLC

5757 Boyne City Rd

Charlevoix, Michigan 49720

Phone: (231) 675 - 3079

Email: bmfservices2019@gmail.com

Website: www.mi-bmfservices.com



Michael Babbitt

(231) 675 - 3079

bmfservices2019@gmail.com

Powered by



HAYES TOWNSHIP HALL

9195 Major Douglas Sloan Road

Charlevoix, Michigan 49720

Deputyclerkhayes@gmail.com

(231) 350 - 3386

ESTIMATE

Estimate #: **EST-000045**

Estimate Date: **Mar. 4th, 2024**

Expiration Date: **Mar. 11th, 2024**

Status: **Draft**

ITEM(S)	RATE & QTY	TOTAL
Vinyl 3rail installation	\$6,996.00	\$6,996.00
Post float set in concrete. Post 2' below grade, concrete 48" below grade. 3 Horizontal rails spanning 8' from post to post. Caps set atop posts.	200.00 Linear Ft. \$34.98/Linear Ft.	
Labor Total = 200 Linear Ft.	\$6,996.00	\$6,996.00
Subtotal		\$6,996.00
Total		\$6,996.00

Payment Schedule

Deposit Due (50.00%) by Mar. 18th, 2024	\$3498.00
Once fence is complete and final Walk Through and approval are recieved. (49.99%)	\$3497.3

Everything Look Good?

Approve Estimate

Something Wrong?

Request Revisions

PROPOSAL

HARBOR FENCE COMPANY

2009 U.S. 31 North ♦ Petoskey, MI 49770
(231)348-5566 ♦ Fax (231) 348-5032 ♦ 800-968-3362

Proposal submitted to: Hayes Township Hall

3- Rail Split Rail with Gate

Address: 9195 Major Douglas Sloan Road, Charlevoix, Michigan 49720

Date: 2/20/2024 Phone: (231) 350-3386 Email: deputyclerkhayes@gmail.com

Specifications for the professional installation of approximately (220') lineal feet of western red cedar split rail fence with one single access gate.

4-3-Rail Western Red Cedar Corner Posts.

22-3-Rail Western Red Cedar Line Posts.

4-3-Rail Western Red Cedar End Posts.

66- 10' Western Red Cedar Split Rails

2- 4" x 8' Treated Pine Gate posts.

1 – Two Board Cedar Gate with powder coated stainless steel adjustable gate hardware.

Total cost for all as listed above professionally installed:.....\$5,267.00

Terms: 50% down With the Balance Due upon Installation.

Note: All Projects Are Installed by The Date Sold & Deposit Received – Due to Weather & Digging Conditions Installation Dates Cannot Be Guaranteed and Are Subject to Change. Harbor fence company reserves the right to increase the cost of labor in the event of extreme soil conditions i.e., rocks and roots ect.

Home Owner Is Responsible for All Local & County Permits Required.

Home Owner Is Also Responsible for Any Needed Variance's.

No returns on aluminum, chain link or wood products.

No returns on vinyl products and special orders including estate gates and gate operators.

Shipping and handling fee & 45% restocking fee apply to all other items.

Authorized

Signature _____

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements are contingent upon strikes, accidents, or delays beyond our control. Owner to carry fire, tornado, and other necessary insurance.

Note: A 50 % deposit of total is required upon acceptance, also this proposal may be withdrawn by us if not accepted within 7 days.

Acceptance of proposal - The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Owner is responsible for property lines, Miss Dig, and All buried improvements. (Example – gas lines, high voltage, telephone, cable, irrigation) The Customer Is Also Responsible for Any Approvals Or Permissions by Any Local Government Or Associations, Boards or Community Bylaws. No Refunds.

Date of Acceptance _____

Signature _____

Payment to be made as follows: **Balance due upon installation.**
Late charge of 25% interest from the date of completion.

PROPOSAL

HARBOR FENCE COMPANY

2009 U.S. 31 North ♦ Petoskey, MI 49770
(231)348-5566 ♦ Fax (231) 348-5032 ♦ 800-968-3362

Proposal submitted to: Hayes Township Hall

2- Rail Split Rail with Gate

Address: 9195 Major Douglas Sloan Road, Charlevoix, Michigan 49720

Date: 2/20/2024 Phone: (231) 350-3386 Email: deputyclerkhayes@gmail.com

Specifications for the professional installation of approximately (220') lineal feet of western red cedar split rail fence with one single access gate.

4-2-Rail Western Red Cedar Corner Posts.

22-2-Rail Western Red Cedar Line Posts.

4-2-Rail Western Red Cedar End Posts.

44- 10' Western Red Cedar Split Rails

2- 4" x 8' Treated Pine Gate posts.

1 – Two Board Cedar Gate with powder coated stainless steel adjustable gate hardware.

Total cost for all as listed above professionally installed:.....\$4,997.00

Terms: 50% down With the Balance Due upon Installation.

Note: All Projects Are Installed by The Date Sold & Deposit Received – Due to Weather & Digging Conditions Installation Dates Cannot Be Guaranteed and Are Subject to Change. Harbor fence company reserves the right to increase the cost of labor in the event of extreme soil conditions i.e., rocks and roots ect.

Home Owner Is Responsible for All Local & County Permits Required.

Home Owner Is Also Responsible for Any Needed Variance's.

No returns on aluminum, chain link or wood products.

No returns on vinyl products and special orders including estate gates and gate operators.

Shipping and handling fee & 45% restocking fee apply to all other items.

Authorized

Signature _____

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements are contingent upon strikes, accidents, or delays beyond our control. Owner to carry fire, tornado, and other necessary insurance.

Note: A 50 % deposit of total is required upon acceptance, also this proposal may be withdrawn by us if not accepted within 7 days.

Acceptance of proposal - The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Owner is responsible for property lines, Miss Dig, and All buried improvements. (Example – gas lines, high voltage, telephone, cable, irrigation) The Customer Is Also Responsible for Any Approvals Or Permissions by Any Local Government Or Associations, Boards or Community Bylaws. No Refunds.

Date of Acceptance _____

Signature _____

Payment to be made as follows: Balance due upon installation.
Late charge of 25% interest from the date of completion.

HAYES TOWNSHIP FEE SCHEDULE

TYPE OF APPLICATION/PERMIT	Fee
ZONING PERMITS Applications shall be filed in writing with the Zoning Administrator, and shall be signed by the applicant, or by his or her authorized agent. Enclosed a check payable to Hayes Township in the appropriate amount. Zoning Permit Fee is as follows: Projects costing between \$20,000 and \$70,000 Projects costing between \$70,001 and \$100,000 Projects in excess of \$100,000 If a zoning Permit expires and needs to be re-issued, the Zoning Permit application fee will be ½ of the original zoning permit application fee, as long as no changes are made from the original zoning permit application. Zoning Permit After the Fact Replanting Shoreland Protection Additional inspections of replanting Shoreland Protection/Landscaping (each time) *	50.00 Minimum 70.00 90.00 90.00 plus 10.00 for each increment of 20,000 over 100,000 Double Original Fee 100.00 50.00
BOARD OF APPEALS Initial Application (Additional hours billed at \$20.00/hour) Subsequent meeting when tabled at the request of the applicant for more than 10 days	935.00 590.00
REZONING REQUEST Contiguous Parcels	200.00
SPECIAL LAND USE/SPECIAL APPROVAL REQUESTS (Residential) Cottage Industry Dog Kennels	100.00 100.00
SITE PLAN/DEVELOPMENT PLAN REVIEW, SPECIAL USE PERMIT PUD's, Commercial, Industrial Developments or Site Condominiums Single Family Subdivision Plat Application Review - Each Phase of Review	300.00 300.00
RE-PUBLISHING FEE	Actual Cost
LAND DIVISION APPLICATION or RECONFIGURATION	150.00
SIGN PERMIT	50.00
SPECIAL MEETING REQUEST Example: Each Planning Commission Member @85.00, Chairman @110.00, Secretary @150.00 and Zoning Administrator @\$110.00.	Actual Cost of members and staff present
SHORT TERM RENTAL LICENSE FEE Application Fee Rental License After the Fact Re-Application Fee	200.00 Double Original Fee 500.00
COPIES Zoning Ordinance - Resident/Non Resident Comprehensive Plan - Resident/Non Resident Freedom of Information Act (FOIA), mailing list, minutes etc Per Page Per Hour Per Month Copy of all documents provided in the packets prepared for and mailed to the Board of Trustees or Township Commissions (paid in advance)	20.00 20.00 .10 12.00 30.00
NON-SUFFICIENT FUNDS (NSF) Effective 07/13/09	Cost of Bank Charges
HALL RENTAL Resident Request for key day before date rented Funeral Dinner All Hall Rentals are subject to Hayes Township residency & deposit	100.00 50% of rental fee No Charge
SEE REVERSE SIDE FOR MORE FEES	

NON-SUFFICIENT FUNDS (NSF) Effective 07/13/09	Cost of Bank Charges
CEMETERY FEES	
Single Burial Plot in Old Section (Cremation Only)	100.00
Single Burial Plot in New Section	300.00
Grave Open/Close	500.00
Grave Open/Close Winter	750.00
Cremains Burial Open/Close	100.00
Grave Marker Foundation Installation	125.00
Grave Marker Foundation	Township Cost +
All fees subject to Hayes Township Cemetery Ordinance #091018	Shipping
Weekend/Holiday	1.5 X
SEE REVERSE SIDE FOR MORE FEES	

The above list includes the initial fees only. If the Planning Commission or Zoning Board of Appeals determines that review of an application and/or participation in the review process by qualified professional planners, engineers, attorneys, or other professionals is necessary they may require the applicant to deposit funds in an escrow account as regulated by Section 9.05.2 of the Zoning Ordinance.

*Charged to the developer or landowner if initial inspection is not passed due to failure to install plants and landscaping according to the requirements of the Hayes Township Ordinance and the approved site plan.

To the Hayes Township Board of Directors,

After listening to the presentations last Monday night (2/12/2024) regarding how much these people are costing (\$85,000+) us, the tax payers, I am very angry! This amount of money in comparison to the Hayes Township's overall yearly budget is ridiculous. This is a very large amount of money that could be spent on much more constructive and needed projects that would benefit many of us taxpayers in the township.

I am not sure, but maybe the Township or the tax payers could sue these obnoxious people for these damages, when they are using frivolous law suits to antagonize our township leaders and waste their time...? I, for one, would be happy to donate to a fund to help stop this senseless waste of time and money. I have spoken with many others who also feel the same way.

It is too bad that these people cannot spend their time on more constructive projects that could help the residents of Hayes Township.

I would also like to thank the Board for doing a great job and also for tolerating this nonsense. Keep up the good work!

Sincerely,

Doug & Missy LaBelle

*Hayes Township residents for over 20 years

To: Kristin

From: Nancy Simon, Hayes Township resident

I begin this letter to you extending my sincere praise and admiration for the many decisions and actions you have taken to enhance and protect our desire to limit industrialization and commercial development. Hayes Township residents are grateful to be located here and people seeking to locate here are envious of us.

Some of the reasons our township is such a desired location is because of our wonderful parks, our beautiful library, our EMS , fire stations and our fully transparent and hard working township supervisor, treasurer, clerk, trustees and all the volunteers on committees.

While I am not someone who takes advantage of our Charlevoix Community Pool, I believe it is an ESSENTIAL component of how we take care of so many residents in the area. The pool provides thousands of our residents the opportunity to support their physical well-being, take lessons, learn life saving skills, overcome disability challenges and congregate for social events.

Please do not overlook the importance that the pool provides for the youth and seniors to establish and maintain social connections. In this era of mental health and loneliness concerns, the pool provides an affordable and fun opportunity for people to gather.

I feel that we need to ensure that the pool can remain an important component of our community by seeking the 10 year millage assessment. I would recommend that it be placed on the August ballot to make sure it does not get overlooked.

Thank you for giving my request serious consideration.

Sincerely,

Nancy Simon

Support for the Charlevoix Area Community Pool

1 message

Jim McMahon <jim_mcmahon_jii@yahoo.com>
To: Ron Van Zee <supervisor@hayestownshipmi.gov>, Kristin Baranski <clerk@hayestownshipmi.gov>, Julie Collard <treasurer@hayestownshipmi.gov>, Matt Cunningham <trustee2@hayestownshipmi.gov>, Doug Kuebler <hayestrustee5@gmail.com>
Cc: Diane McMahon <diane_mcmahon_1@yahoo.com>

Sat, Feb 17, 2024 at 8:58 AM

Dear Hayes Township Board of Trustees,

The Charlevoix Area Community Pool is an important asset for Hayes Township residents and the entire nearby community. Whether you are a young person learning to swim, an older person recovering from surgery (rehab), or just someone desiring year-around indoor-access to a pool for exercise and the therapeutic benefits of water, the Charlevoix Area Community Pool is highly appreciated.

We understand there is some discussion to reduce the pool's milage term from 10 years to 2 years. The pool cannot sustain their operation on a shoestring. As governmental officials and business people, you know employee career paths and purchases of equipment and building maintenance require long term financial commitments.

Diane and I urge you to keep the milage term to 10 years. There are no other nearby community pools for public use. The Charlevoix Area Community Pool is a gem and a valued asset for our Hayes Township.

We appreciate Hayes Township's long term commitment to the pool. It's imperative that you sustain the 10-year milage term. Thank you.

Jim and Diane McMahon
phone: 231-347-9829

2 attachments

-  2024-02-02 Millage Patron letter.pdf
329K
-  2024-02-02 Millage FAQs for residents.pdf
359K



To Patrons of the Charlevoix Area Community Pool:

The Charlevoix Area Community Pool (CACP) has thrived for 26 years thanks to the generous support of our community. The Pool has programs for Patrons of all ages to enjoy - including indoor fitness, lap swim, recreational swim and swim lessons and water safety classes. The Pool serves almost 4,000 community members making more than 19,000 visits each year, including 400 school children.

This year the Pool millage will be up for a renewal vote and we have concerns with the proposed timing of the vote and millage duration. The Pool cannot continue to operate without the millage renewal and we would appreciate your support to help ensure the future of the Pool by **contacting (phone, mail or email) ALL your local township or city representatives to let them know:**

- 1) You support a pool millage **RENEWAL**
- 2) You support a **10-YEAR TERM** for the millage renewal versus a proposed 2-year term
- 3) You support the millage vote on the **AUGUST** ballot versus the proposed November ballot
- 4) You value the great programs the Pool provides to the community.

A **Millage Renewal Fact Sheet** and a **list of township and city officials** is attached for your reference.

If you have any questions, please contact the pool representative below:

Diane Herder, CACP President (City of Charlevoix)
dherder1027@gmail.com | c: 517-281-0721

Jon Cooksey, CACP Treasurer (City of Charlevoix)
cooksey@gmail.com | c: 415-377-1964

Janet Begrow Chambers, CACP Marketing & Development Manager (Charlevoix Township)
janet@charlevoixpool.org | c: 814-308-3168

Ed Russell, CACP Board Member (Hayes Township)
emk@charter.net | c: 231-330-4973

Feel free to copy the Pool on your correspondence to officials at info@charlevoixpool.org or mail a copy of your letter to: Millage Info, CACP, 11905 US 31 North, Charlevoix, MI 49720.

The Charlevoix Area Community Pool Board of Directors thanks you for your valuable support.

Diane Herder, President Naomi Singer, Vice President Sharon Hoffman, Secretary Jon Cooksey, Treasurer
Board Members: Chris Abbey, Joyce Maager, Babette Stolz, Jim Schwaderer, Fred Ziegel
Board Members Emeritus: Mike Dow, Dr. Steve Hansen

Charlevoix Area Community Pool - 2024 Millage Renewal Fact Sheet

What is the Millage?

- The Pool has received funding from two 10-year tax millage assessments (2004, 2014) that were approved by the residents of the City of Charlevoix, Charlevoix Township and Hayes Township.
- The millage is listed on your Winter Property Tax statements as the "Recreational AU". It is less than 2% of an annual tax bill. The 2024 Pool millage tax is \$33.33 for every \$100,000 of taxable value.

Why is the millage vote important to the CACP?

- Millage revenue funded almost half of all Pool operating expenses in 2023. The Pool cannot operate without the millage.
- Millage revenue helps keep Pool user fees low. Residents of City of Charlevoix, Charlevoix Township and Hayes Township receive an additional discount (see below).
- Your property tax dollars help our community thrive. Other essential community services also rely on millage funding including the Charlevoix Library, Senior Centers, EMS, fire stations, county parks and schools.

Why is a 10-year millage renewal best for Pool operations?

- A millage of less than 10 years would negatively impact the Pool's operations because:
 - The Pool would have more difficulty obtaining grants and donations which funded 33% of operating expenses in 2023. Donors and foundations want to see long-term financial stability and a solid future.
 - The Pool would have difficulty making long term plans for staffing, donor-funded capital improvements and maintaining strong finances if the millage needed to be renewed every 2 or 5 years.

Why is a Pool millage vote on an August ballot better than on a November ballot?

- An August vote gives the Pool more time to plan for the future
- The November general election ballot will obscure the local Pool millage; even though more people vote in November, they will be focused on state and federal elections.

What is the role of the Recreational Authority Board and how is it involved in the millage renewal?

- Comprised of 7 municipal officials appointed by their respective city council or township boards: 3 from the City of Charlevoix, 2 from Charlevoix Township, and 2 from Hayes Township.
- Responsible for selecting the millage ballot date and the ballot language, including the millage duration.
- Certifies the millage assessment each September, collects millage payments from each municipality, and administers the millage payments to the Pool.

Do residents of the City of Charlevoix, Charlevoix Township and Hayes Township receive discounted Pool rates?

- Yes, residents receive a 20% discount on all pool programs. The discount is shown in the Pool's Pricing information.

Is the Pool open to the public?

- Yes, the Charlevoix Pool is open to everyone.
- Services are pay-per-visit with no annual membership fee.

What is the Charlevoix Area Community Pool (CACP)?

- The Pool is a 501(c)3 non-profit organization created in 1997 by community members who raised 100% of the funds required for the construction of the Pool from private donors and grants.
- Almost 4,000 users make more than 19,000 visits a year to the Pool for exercise and fun. Pool programs include:
 - Aquatic exercise classes and Fitness – attended mostly by seniors
 - Lap swimming – attended by adults of all ages
 - Recreational swimming including open swim and events for families
 - Swim lessons and water safety programs where students are bused to the pool during the school day. (About 400 students a year participate. Scholarships are available.)
 - Swimmers with disabilities
 - Lifeguard certification, local U.S. Coast Guard training and scuba diving training
 - Pool rentals and other special events for families
- The Pool is 100% accessible for users with disabilities with a pool wheelchair, pool ramp, and chair lift for the pool and hot tub and ADA accessible bathrooms. Charlevoix County Transit bus is available for some seniors to visit the Pool.
- A volunteer Board of Directors meets monthly to review programs, financials, staffing, funding and pool operations. Meetings are open to the public.
- Staffing includes one full-time manager, a part-time coordinator and 30 part-time staff for the check-in desk and lifeguarding.
- Pool financials are audited annually by an independent CPA firm. Accounting and payroll services are provided by Hoffman & Associates CPA in Charlevoix. More info is available on the Pool website at: <https://www.charlevoixpool.org/annual-report>

Questions may be directed to info@charlevoixpool.org or to any of the following CACP Pool representatives:

Diane Herder, CACP Board President 517-281-0721

Jon Cooksey, CACP Board Treasurer 415-377-1964

Janet Chambers, CACP Marketing and Development Manager 814-308-3168

Ed Russell, CACP Board Member 231-330-4973

WEBSITE: www.CharlevoixPool.org



February 26, 2024

LuAnne Kozma

Via E-mail

luannekozma@gmail.com

RE: **City of Charlevoix Invoice**
Our File No. 1932.00

Dear Ms. Kozma:

The Township supervisor has asked that I respond to your allegations that the Township owes the City of Charlevoix \$98,027.01. The issue of amounts allegedly due to the City of Charlevoix for ambulance services came to my attention in late July or early August 2023 when the Township was conducting its due diligence. I was provided with a copy of the June 1, 2019, Charlevoix Emergency Medical Services Agreement for Ambulance Services, the Calculation of the 2019 EMS Services, as well as numerous invoices from the City of Charlevoix. The invoice at issue is dated July 29, 2020, in the amount of \$90,105.84. The invoice merely states that the \$90,105.84 is for "Ambulance Contract with the City of Charlevoix through year ending March 31, 2020." Hayes Township's share of the estimated unfunded EMS costs for the year ending March 31, 2020, was only \$48,713.76. Additional documentation to support the \$90,105.84 invoice was requested from the City but never received. Based on the documentation that the Township and I received, it was my conclusion that Hayes Township did not owe the invoiced amount. If the City of Charlevoix were going to pursue payment of that invoice, it would need to provide additional documentation which, to date, has yet to be supplied. The invoice is now almost four years old, and it is my understanding that the City is not pursuing any unpaid amounts.

Very truly yours,

PARKER HARVEY PLC

Todd W. Millar

TMW:kes

CC: Ronald VanZee via email
Ellis Boal via email

Response to Hayes Board of Trustees on Hayes *Voice* article on “Litigation Spawned by the Law Project” claimed to be written by the Township “Council”

The March 2024 issue of the Hayes *Township Voice*, mailed to every resident, and downloadable at <https://www.hayestownshipmi.gov/wp-content/uploads/2024/03/Hayes-Township-Voice-March-2024.pdf>, reports on Township litigation resulting from plans of the Law family to excavate and build a boat basin and boathouse/event center capable of seating 350 guests, as part of a 500-acre corporate resort, some of which they have been building. However, their land is zoned R-1, “low-density residential” which is supposed to be “relatively quiet,” on Lake Charlevoix. The Laws claimed they are abandoning their boathouse plans. But if they still intend to use residential land for corporate activities, this violates the Zoning Ordinance and the Township must vigorously enforce against such non-residential uses.

The *Voice* complains of legal expenses incurred in defending three suits filed by LuAnne Kozma and even complains of Zoning Board of Appeals (ZBA) cases brought by her (and two other residents) which were supported by 50 additional residents, two organizations and one tribal government who made public comments in favor of protecting the shore, upholding the ordinance, and against a corporate resort.

The *Voice* does not mention that the Laws sued the Township in 2022, to overturn one of the ZBA interpretation decisions where Kozma, Irene Fowle and Elisabeth Hicklen prevailed. The ZBA held that our Zoning Ordinance does indeed prohibit excavation of the shoreland for a boat basin or channel. Despite all this, the Laws still wanted to excavate the shore and build that large building over the water. Six months later in 2023, they abandoned the lawsuit.

The reasons Kozma and neighbors Fowle and Hicklen requested Interpretations of the Zoning Ordinance in the first place, is because Township officials had violated the Zoning Ordinance permitting the project and asserting the expired permits remained valid. In 2019, the Planning Commission approved a “shoreland landscaping plan” for the Laws which included a large excavated boat basin and canal cut some 200 feet back into the lake’s shoreland. In July 2020, the Zoning Administrator issued a zoning permit for a 2-story stone boathouse and event center building over that excavated boat basin. In 2021 when we and our neighbors found out about the project, we realized the permits had expired according to the Zoning Ordinance, and told the Township so. Tip of the Mitt Watershed Council argued the same.

However, Township officials insisted in meetings that September that the permits were not expired, the Township approvals were still good, and the Laws could move

forward. The Zoning Administrator insisted there was an “unwritten philosophy” that somehow could trump the Zoning Ordinance. The September 2021 ZBA filing included appeals of the Township officials’ 2021 determinations that the (now-expired) 2019 and 2020 permissions continued in effect despite the passage of a year and the 1-year time limit of the ZO.

The filing also included five Interpretation Requests regarding: the 100-foot setback is from the new Ordinary High Water Mark in the case of an artificial excavation; the Waterfront Regulations prohibited shoreland excavation; that there is no such thing as “unwritten philosophy” that a Zoning Administrator can use to not follow the ordinance; the purpose of the waterfront review process was to ensure compliance, not “compromise ... rather than the strict mandates”; and zoning permits expire one year after the date of issuance.

After the first ZBA case was filed, we found we had to sue the Township just to force the Township to follow the rules to hold ZBA hearings timely, properly-notice them, and to re-populate the ZBA itself.

A second ZBA appeal case was filed in December 2021 after the Zoning Administrator made determinations in an affidavit that the boathouse met all zoning regulations and he would permit it again, and boat basins and canals only need to be permitted by state and federal agencies, not the Township.

Eventually, in August 2022, nearly one year after filing the first ZBA case, (and 8 months after the second case) we prevailed on every interpretation request presented except one, described below, despite vigorous attempts by the Supervisor/Zoning Administrator Ron Van Zee, his Deputy (and Planning Commission Chair and ZBA member) Roy Griffiths, and the ZBA Chair Tom Darnton to delay and defeat them.

The Township’s deliberate delays included:

- The Zoning Administrator/Supervisor refused to transmit the September 2021 filing to the ZBA “immediately” as required by state statute. Kozma sued. The Township promptly capitulated whereupon she withdrew the case.
- The ZBA refused to hold hearings within 45 days as required by its rules, preceded by a 15-day public notice as required by statute. Kozma sued again about this. The Township finally admitted the Planning Commission decision and boathouse zoning permit had both expired. That mooted those

two appeals.

- ZBA public hearings on the five Interpretation Requests were then set for January-February 2022. Kozma, Township officials, and the ZBA spent hours in preparation. But in the middle of the hearings the Township sabotaged them, causing them to be held completely all over again, by (a) a prohibited statement by then-ZBA member Roy Griffitts that despite zoning laws, “freaking multi-millionaires” can do “whatever they damn well want; it's private property,” and (b) even Griffitts being on the ZBA despite being a Township employee serving at the “pleasure” of the Supervisor (who is also the Zoning Administrator).
- Public hearings were again scheduled for April 20 and 27, 2022. However the Township Clerk published defective and untimely public notices. And ZBA member Griffitts who had shown his bias in favor of the Laws, remained on the ZBA. Kozma sued on these points and the hearings were called off.
- Finally the hearings were noticed for August 22 and 29, 2022. They were held properly after public notice. Decisions were made and became official at the next ZBA meeting on October 3. Kozma, Fowle and Hicklen (and the Community) had prevailed on four of the five Requests.

One ZBA Interpretation, preventing excavation of the Shoreland Protection Strip, effectively stopped the Laws’ boathouse plans. With the Laws backing out of their lawsuit, the ZBA Interpretation stands, and governs the shoreline today throughout the Township, conferring enormous benefit on our lakes and streams.

We see that wording to ignore the Township shoreland protection provisions of the ordinance if state and federal permits are obtained, or even if the Planning Commission finds it acceptable, to allow an alteration of more than 20% of the shoreline, (giving the Commission variance-giving power, something it cannot do), was inserted into the draft Zoning Ordinance the Planning Commission is reviewing, soon after the ZBA clarified that excavation is prohibited. The Township is still attempting a run-around our Ordinance to allow the Laws’ excavation. We hope the re-populated Planning Commission will remove this language.

The single Kozma suit filed in the spring of 2022 which the Court declared should not have been filed, sought in main part to force Roy Griffitts off the ZBA for the reasons outlined above and to cancel improperly-noticed hearings scheduled at the time

for April. These goals were accomplished during the suit.

We have a currently-pending suit contesting one erroneous ZBA Interpretation regarding the horizontal location of the Ordinary High Water Mark after excavation of an artificial boat basin. Its decision would allow current owners of artificial boat basins or channels in the Township to build buildings directly over the water of a lake, which violates the state statute requiring all R-1 zoned properties to live by the same setback rules. The Interpretation created an automatic variance for future buildings, which it cannot do.

The ZBA ruled simply from the gut, citing zero facts in doing so, in violation both of the Zoning Ordinance and state law. We are in Court seeking an order that the ZBA find facts for its decision, and in doing so might rule differently. Everyone knows this: You have a right, every time, to a decision based on facts. The Township and Circuit Court have so far argued only that Kozma has no standing.

Our response is we and every other Township shoreline owner have standing when the Interpretation is about something which will govern all of them this year, next year, and the years after. The Township has three pre-existing artificial basins, where according to the ZBA Interpretation the owners would be free to build structures over the water despite the 100-foot setback rule. Other shoreline owners cannot. But everyone should be prohibited, equally. It is a legitimate question on which the Courts should rule.

The complained-of litigation expenses could have been avoided if the Township had just done the right thing from the start, and enforced our Zoning Ordinance, protected Lake Charlevoix and its shoreland and said “no” to the Laws.

We don’t see the Township wanting to comply while this Zoning Administrator continues to ignore, manipulate, and not enforce the Zoning Ordinance and while the Planning Commission entertains changes to the Zoning Ordinance that would allow the project. The ordinance does not permit commercial use for a corporate resort inside the R-1 residential zone.

Residents will remain vigilant. See page 5.

LuAnne Kozma, Ellis Boal
9330 Woods Road
Charlevoix MI 49720
March 11, 2024

Supporters who wrote or spoke on the record at ZBA public hearings in support of the interpretations by Kozma, Fowle and Hicklen:

Little Traverse Bay Bands of Odawa Indians	Anne Perry
Michigan Loon Preservation Association	Bud Pope
Tip of the Mitt Watershed Council	Sandra Pritchard
Chris Boal	Susan Rankin
Ellis Boal	Jim & JoEllen Rudolph
Scott Boal	Dale Scott
Stewart and Susan Boal	Nancy Solomon
Winnie Boal	Laurie Sommers
Tim Boyko	Shelly VanWart
Jason Brabbs	Elliott Weissbluth
Stephen Brede	Mike and Maureen Whitehead
Jessica Catt	
William and Diane Conklin	
Melvin Czechowski	
Omar Feliciano	
Frank Fowle	
Noah Fowle	
William Fowle	
Jonathan Friendly	
Penny Hardy	
Betty and Bill Henne	
Bill Hicklen	
Paul Hoadley	
Danelle and Mike Hutcheon	
Anne Kantola	
Debra Kochin	
Greg Kozma	
Natalie Kozma	
Maggie Leonard	
Margie Marks	
Jim McMahon	
Ayrie Moore	
Lucy Moore	
Chris and Debbie Narten	
Marylee Pakieser	



clerk hayestownshipmi <clerkhayestownshipmi@gmail.com>

Errors in the March 2024 Hayes Township Voice

3 messages

Ellis Boal <ellisboal@voyager.net>

Sat, Mar 9, 2024 at 10:55 AM

To: Ron VanZee <supervisor@hayestownshipmi.gov>, kristin baranski <clerk@hayestownshipmi.gov>, treasurer@hayestownshipmi.gov, Matt Cunningham <trustee2@hayestownshipmi.gov>, Doug Kuebler <hayestrustee5@gmail.com>

Cc: JoEllen <jobee949@gmail.com>, "kmmagnolia@gmail.com" <kmmagnolia@gmail.com>, kevin willis <kwillisc@yahoo.com>, LuAnne Kozma <luanekozma@gmail.com>, Todd Millar <tmillar@parkerharvey.com>

Hayes Township Board of Trustees,

I write to call attention to errors in the March issue of the *Hayes Township Voice*, mailed to every resident, appearing now on the Township website at <https://www.hayestownshipmi.gov/march-2024-hayes-township-voice/>.

(I may have other comments later about the March *Voice*, but the following come immediately to mind, insofar as the newsletter discusses the gravel pit litigation.)

First the *Voice* says ignorantly the piece was written in part by the "Hayes Township Council." There is no "Hayes Township Council." I know the Township attorney well enough to know he would never have made these errors. The *Voice* was referring evidently to you as the author, the Hayes Township Board.

Second, in April I filed a Petition in the gravel pit litigation for JoEllen Rudolph, Kevin Willis, and Kathy and Vic Martinchek. I attach a copy. We opposed Rieth-Riley's continued mining of the Green Pit near Bay Shore.

A passage in the *Voice* says this of the result:

"The practical outcome was that the petitioners spent a lot of money in attorney fees, forced the Township that was sued by petitioners and part of the lawsuit to spend money on attorney fees, only to wind up exactly where they would have been had they accepted the settlement proposal put forth by Rieth-Riley and the Township at the mediation back in August 2023."

I did not charge for my work, nor for that of LuAnne my wife and para-legal, on the Petition. The *Voice* claim that I made "a lot of money in attorney fees" is just false. Your reporter made it up without asking. Who was that? All the Petitioners paid for were out-of-pocket expenses: courtroom poster boards and fees for the mediation, filing, and copying.

Third, the *Voice* claims twice that "the Township was sued by Petitioners." This is also false. It was H&D which sued the Township in 1987. Dozens of residents intervened a year later. Consent judgments were reached which provided for a 25-year life of the mine.

Last year the Petitioners asked the Court to enforce the 25-year period. . The Petition concluded with a request that the company be ordered to cease operations because the period was over.

We made no claim against the Township. Indeed our 50-page post-hearing brief defended the Township as not being a source for the company's false claim that one of the Petitioners had served on the Township Board without protesting that mining continued after the 25 years.

The Township attorney did not call or need to call any witness in Court, did not cross-examine any Company or Petitioner witness, and did not file a post-hearing brief. He sat silently on the clock through two hearings, save for remarks at the start to the effect that the 5-year stipulation agreed to by Rieth-Riley might become moot.

Our litigation also exposed the anti-competitive practice of Rieth-Riley and Team Elmers not bidding against each other for the same jobs. The US Department of Justice in Chicago is looking into it. Victims may include the LTBB Tribe, the County, the Township itself, or others.

Accordingly the *Voice* reference to the "the Township that was sued by petitioners" was fabricated and false. Again, please identify your source.

Finally, the Petitioners' approach to the litigation was not all-or-nothing. They approved every major decision of the case, including at the mediation to which we did not come empty-handed. We offered to allow Rieth-Riley to mine for one more year. The Company refused, though evidence at the hearing showed it could have mined all the gravel it was able within the one year.

The Company's 5-year offer conveyed to us at the mediation would also have required the Petitioners to settle all other claims. Two which came up later were its lack of wire perimeter fencing which resulted in injury to neighborhood children, and Company use of prohibited Townline and PinCherry Roads for hauling gravel.

The Judge observed on the record that Rieth-Riley was "mining like crazy." At the end he "encouraged" us to pursue the other claims with an expert.

As noted, the Petitioners and Township were not adversary. It would have been constructive had the Board sent me a draft of the piece before going to print, whereby the errors would have been avoided.

In any event, please distribute corrections in the next issue.

Because this comment would take more than three minutes to read aloud, please attach a copy to the next Board minutes. I will appear then and summarize it in the time allowed.

Thank you.

Ellis

 petition-final.pdf
225K

JoEllen Rudolph <jobee949@gmail.com>

Sat, Mar 9, 2024 at 4:27 PM

To: Ellis Boal <ellisboal@voyager.net>

Cc: Ron VanZee <supervisor@hayestownshipmi.gov>, kristin baranski <clerk@hayestownshipmi.gov>, treasurer@hayestownshipmi.gov, Matt Cunningham <trustee2@hayestownshipmi.gov>, Doug Kuebler <hayestrustee5@gmail.com>, "kmmagnolia@gmail.com" <kmmagnolia@gmail.com>, kevin willis <kwillisc@yahoo.com>, LuAnne Kozma <luannekozma@gmail.com>, Todd Millar <tmillar@parkerharvey.com>

Good job. One omission. The original settlement offer from RR via Todd Millar in April 2023 included the demand that we give up all rights to sue RR for any reason. That was the main reason we did not accept RR's 5 year offer back at the Intervenor's first meeting with you in April 2023 and proceeded to file our lawsuit against RR. With that provision still demanded at the August mediation, we would not agree.

[Quoted text hidden]

Todd Millar <tmillar@parkerharvey.com>

Mon, Mar 11, 2024 at 12:32 PM

To: JoEllen Rudolph <jobee949@gmail.com>, Ellis Boal <ellisboal@voyager.net>

Cc: Ron VanZee <supervisor@hayestownshipmi.gov>, kristin baranski <clerk@hayestownshipmi.gov>, "treasurer@hayestownshipmi.gov" <treasurer@hayestownshipmi.gov>, Matt Cunningham <trustee2@hayestownshipmi.gov>, Doug Kuebler <hayestrustee5@gmail.com>, "kmmagnolia@gmail.com" <kmmagnolia@gmail.com>, kevin willis <kwillisc@yahoo.com>, LuAnne Kozma <luannekozma@gmail.com>

I am attaching Mr. Boal's email response to me of April 28, 2023, wherein he relays that the Petitioners were not willing to settle this matter. Nowhere in the email response does he mention the alleged requirement that petitioners must give up all claims against Rieth Riley. I understand where that belief is coming from given the language used in the letter from Rieth Riley that I have also attached. However, I do not read the Rieth Riley letter that way. My belief and understanding was that so long as Rieth Riley complied with the settlement agreement and any applicable provisions of the consent judgment, you would not sue them again. It would be unrealistic for Rieth Riley to think it could get you to agree to settle and then do anything it wants with immunity. That was not their offer nor their demand in my opinion. However, no one ever indicated that as a problem so as to give the parties an opportunity to explore that issue. Everything is up for negotiation. If we had known that was the issue, we could have addressed it. It was never raised.

Todd

3/11/24, 2:08 PM

Gmail - Errors in the March 2024 Hayes Township Voice

Todd W. Millar
Attorney

DIRECT 231.486.4519 EMAIL tmillar@parkerharvey.com

PARKER HARVEY PLC

901 S. Garfield Ave, Suite 200, Traverse City, MI 49686

MAIN 231.929.4878 FAX 231.929.4182 www.parkerharvey.com



***** Parker Harvey PLC ***** Please note that this email message and any attachments may contain privileged or confidential information that is protected against use or disclosure under federal and state law. If you have received this in error, please advise by immediate reply. Any transmission to persons other than the intended recipient shall not constitute a waiver of any applicable privileges. Any unauthorized use, disclosure, copying or dissemination is strictly prohibited.

[Quoted text hidden]

2 attachments



23.04.28 Email from Boal to Millar(479706.1).pdf
172K



23.04.18 Letter_RRCCI to T. Millar for Twsp(479713.1).pdf
238K

Todd Millar

From: Ellis Boal <ellisboal@voyager.net>
Sent: Friday, April 28, 2023 3:26 PM
To: Todd Millar
Subject: Re: Rieth Riley

Todd,

Sorry, I did say I would get back sooner.

The judge did not deny the petition, only the TRO.

The clients are not interested in the RR proposal and will pursue a PI on the petition. Their backs are against the wall and they have nothing to lose. We lost any chance to end the current 8-week excavation operation but if successful we can stop future operations.

Thinking more on the RR laches defense, for which it cited no case law, I am researching whether laches can ever apply to enforcement of a judgment as opposed to filing of a complaint.

Reviewing the prior litigation my impression is the Township did not take a strong position one way or another, perhaps because it was compromised by irregularities in handling the SUP petition back then. That problem would not apply now. The Township cannot be neutral. Judge Hayes seemed to be asking the Township to say what it thinks. It has to choose one side or the other, and we ask that it be our side.

This being an equity case not a law case, we are in effect appealing to the conscience of the chancellor. The word "advisory" has to mean something, not nothing as RR is claiming.

What that "something" is was not spelled out in 1991 because everyone just assumed H&D would take its own "advice" and stick closely to the "advisory" schedules. The CEO's 1991 testimony was summarized and credited by Judge Pajtas -- that the revised plan "would not extend the mining in terms of the time for extraction" -- even though it was not spelled out completely. That means there was a time for extraction which would not be extended.

If RR today were right, it would mean that the four schedules incorporated by H&D into the Judgments were all fake-outs, bargains in bad faith, the schedules as last revised could always have been extended out to 71 years, and H&D knew it back then but didn't say it.

When you spoke to the Township saying it has to stick by the Consent Judgments, you seemed to be unaware of what Pajtas held, and we hope that holding changes your mind.

Pajtas did not believe H&D acted in bad faith and the Court today is bound by that.

Also I don't have the impression that "demand" has fluctuated "significantly" since 1991. RR would have the burden of proving demand level changes since it is the one which knows the industry. A change in demand level cannot be proven just by its self-interested say-so.

Ellis

On 4/28/2023 11:14 AM, Todd Millar wrote:

Ellis,

I was hoping to hear back from you earlier this week regarding Rieth Riley's offer to shorten the mining time frame down to 5 years. I would like to capitalize on this momentum if your clients are interested. Please advise where we are.

Thanks

Todd

Todd W. Millar

Attorney

DIRECT 231.466.4519 **EMAIL** tmillar@parkerharvey.com

PARKER HARVEY PLC

901 S. Garfield Ave. Suite 200, Traverse City, MI 49686

MAIN 231.929.4878 **FAX** 231.929.4182 www.parkerharvey.com



***** Parker Harvey PLC ***** Please note that this email message and any attachments may contain privileged or confidential information that is protected against use or disclosure under federal and state law. If you have received this in error, please advise by immediate reply. Any transmission to persons other than the intended recipient shall not constitute a waiver of any applicable privileges. Any unauthorized use, disclosure, copying or dissemination is strictly prohibited.

RIETH-RILEY CONSTRUCTION Co., Inc.

100% Quality • 100% Employee Owned • Over 100 Years

April 18, 2023

Mr. Todd Millar
Parker Harvey
901 S. Garfield Ave, STE 200
Traverse City, MI 49686

Sent via electronic mail

Mr. Millar:

I've received your letter dated April 14, 2023 regarding Rieth-Riley's Green Pit in Hayes Township, Charlevoix County, MI and the recent Town Hall meeting held on April 6, 2023.

1. Yes, Rieth-Riley forwarded an email to the Township on April 11, 2023, noting that Ms. Anderson declined multiple attempts by Rieth-Riley to inspect her home and added "[she] had no problem with Rieth-Riley." Rieth-Riley remains willing to examine and vet the concerns of Township residents on a case-by-case basis and further to cooperate with Township residents, as part of its practice of neighborly stewardship over the Green Pit and its other operations in Hayes Township.

2. Regarding the schedule issue of the Consent Judgment:

First, Rieth-Riley does not have the information to either accept or reject statements about the contemporaneous concerns or motivations voiced by the Intervenor to the 1989 Consent Judgment (as amended in 1991 and 2004). Please forward those to me at your earliest convenience.

Additionally, and regardless of any contemporaneous concerns of the Intervenor, Rieth-Riley would oppose any amendment to the Consent Judgment because the language which actually made it into the Consent Judgment is clear and unambiguous.

Read literally, the proposed Schedule of Mining and Restoration attached to the Consent Judgment as Exhibit D "... reflects the goals of the parties in attempting to both mine and restore the subject lands." Just as Rieth-Riley presently wishes to mine and restore the Green Pit within the next five (5) or ten (10) years, it may have been H&D's goal to mine and restore it within thirty (30). A goal is not a deadline, however. Further, as you advised the Township residents at the meeting, any schedule of mining was "... advisory only ... depending on the needs of the industry and Plaintiff ..." per Paragraph 11 therein. As you further noted at the Town Hall, the Intervenor received skilled counsel who signed off on the Consent Judgment on their behalf. Their skilled counsel was surely aware that a Court speaks through its written Orders and terms will not be implied. Had the Intervenor and Plaintiff truly agreed upon a time limit, it could and should have been written into the Consent Judgment to avoid the kind of argument that is currently being advanced in the face of an Order which states that the discussed schedule "is advisory only." **As such, Rieth-Riley's position has not changed: the language which made it into the Consent Judgment did not and does not give H&D, Inc. (now Rieth-Riley) any deadline with which to exhaust or abandon its property.**



RIETH-RILEY CONSTRUCTION Co., Inc.

100% Quality • 100% Employee Owned • Over 100 Years

Finally, it should be noted that when asked at the Town Hall, Rieth-Riley's intention was to indicate that the "life expectancy" of the Green Pit remains about thirty-six (36) years under current factors like present market demand and existing reserves. If Rieth-Riley were to accelerate its extraction schedule—ignoring the above factors—it could deplete and restore the Green Pit within five (5) years. But, depleting such a resource without certain future demand for its product creates significant financial risk to Rieth-Riley. **However, since the Township Board desires that Rieth-Riley significantly shorten the extraction time period, Rieth-Riley is prepared to offer that it will complete its extraction operations by the end of five (5) calendar years from the date any such agreement is reached, provided that the Township waives any claim that Rieth-Riley must adhere to any other contrary schedule. Further, the Intervenor must agree, by an amendment to the Consent Judgment or other written agreement, along with the Township, that they will instigate no further court action during those five (5) years, nor seek to amend the Consent Judgment further, or interfere in any way with Rieth-Riley's operations at the Green Pit or Bay Shore Pit sites.**

3. Rieth-Riley rejects the notion that its Green Pit disturbs or harms ambient air in the Township. The ambient air surrounding quarries, mines, and pits throughout the United States have been measured thousands of times using rigorous protocols and US-Environmental Protection Agency methods. In every case, the ambient silica levels in air surrounding sand/gravel mines were found to be consistent with the background levels that exist throughout the US. **The collected data supports the conclusion that aggregate quarries are *not* a significant source of ambient silica, which the EPA concluded in 1996.** The Occupational Safety and Health Agency acknowledges silica as an occupational health risk. As such, Rieth-Riley protects its employees and adheres to federal and state requirements.

Further, **under the Michigan Vehicle Code trucks must have a load covered with firmly secured canvas or similar type of covering to prevent contents from dropping, sifting, leaking, blowing off, or otherwise escaping.** When no load is present, however, tarping or covering trucks necessarily is not required. As indicated in an April 12, 2023 email to the Township, the trucks which were the subject of a townsperson's recent complaint were *not* hauling a load and therefore were not required to be tarped. As Rieth-Riley continues to conduct extraction operations, it will appropriately vet and handle every complaint it receives.

Rieth-Riley also acknowledges that recent complaints about H&D's past restoration efforts have been made, both by a select few local residents and by various local media outlets, but these complaints are unfounded. **The lone unrestored portion of the Green Pit is not actually *a part of the Rieth-Riley-owned Green Pit*, it belongs to Emmet County and Rieth-Riley has no control over Emmet County's land .**

4. (Omitted Intentionally)

5. In review of the past reclamation inspection reports, it appears the most common practice was for H&D, Inc. to schedule the annual inspection, then promptly notify the Township Clerk of the time and date for the inspection. H&D would also invite the Township Clerk along with any Township Representatives to attend. Historically, it appears H&D permitted one Intervenor (JoEllen Rudolph) to attend these inspections, which she did, on four (4) total occasions. Unfortunately, on April 14, 2023 Rieth-Riley was served with a Motion and Request for Temporary Restraining Order by five (5)



RIETH-RILEY CONSTRUCTION Co., Inc.

100% Quality • 100% Employee Owned • Over 100 Years

Intervenors, including JoEllen Rudolph, via their attorney, Mr. Ellis Boal. **As such, Rieth-Riley opposes the Township Board's recommendation that a representative of the Intervenors be present at any future inspection of the site by Mr. Bauer or other expert.**

6. Rieth-Riley has considered the Township residents' request for an opportunity to purchase portions of the Green Pit. **Conceptually, Rieth-Riley is not at all opposed to such an agreement.** However, any such agreement would need to be in the form of a right of first refusal granted to and on behalf of *all* interested Township residents, with one voice and singular representation. Formation of an entity by the interested residents would be preferable. Rieth-Riley would insist such entity (or group of residents) had legal representation.

To conclude, I acknowledge the Township's request for a letter to certain property owners; Rieth-Riley will consider this request. I appreciate your review of this letter and welcome you to contact me with any other questions or concerns you may have.

Sincerely,

RIETH-RILEY CONSTRUCTION CO., INC.



Keegan M. Brennan

CC: Jim Pemberton, Ron VanZee, Gary Schenk (all via email only)



HAYES TOWNSHIP BOARD OF TRUSTEES REGULAR MEETING

Meeting Date: March 11th 2024

Location:

Hayes Township Hall

Name	Would you like to be called on to speak during public comment?	
STAN BOB, S	☒ YES	☐ NO
BILL MCCARY	YES	☒ NO
Sherry McCary	YES	☐ NO
May Mills	YES	☐ NO
Connie Ford	YES	☐ NO
Shirley	YES 2??	☐ NO
Don Bay	YES	☐ NO
DEB NARTER	☒ YES	☐ NO
Laura Ford	YES	☒ NO
LuAnne Kozma	☒ YES ?	☐ NO
Ed Bajos	YES	☐ NO
Jim McMahon	YES ?	☐ NO
GERRY MILLS	☒ YES	☐ NO
ROD SLOCUM	YES	☒ NO
Donald Gregory	YES	☒ NO
SHARON HOFFMAN	YES	☒ NO
Jane Simon	☒ YES	☐ NO
	YES	☐ NO
	YES	☐ NO

